

## **COMPLAINT REVIEW STAGES**

***This document summarizes the steps to help the understanding of the complaint process. In the event of a conflict between this document and the laws and/or the rules, the laws and/or the rules will control.***

- 1. INITIAL (FIRST) FILE REVIEW:** This is the first time the Board sees and reviews the file on a newly-received complaint. The file contains the complaint and the Respondent=s written response to the complaint and all documentation provided with the response. If the Respondent fails to provide a response or fails to timely request a continuance to respond, the Board may consider the complaint in the absence of a response. Staff provides the Respondent written notice that the complaint is on the agenda for a specified meeting date. The staff will also provide written notice to the Complainant if notice has been requested by the Complainant. The Respondent (and Complainant) may attend the open sessions of the Board meeting and listen to the Board=s discussion and decision, but may not address the Board unless the Board asks them to do so.

If the Respondent is present at the Initial File Review, the Board may request that the Respondent participate in an informational interview. A Respondent may refuse to participate in an informational interview. The Board may use any information presented at the informational interview in other proceedings related to the complaint.

Following its review, the Board may dismiss the matter, request or subpoena additional information, order a limited or full investigation, or invite the Respondent to an informal hearing. The Board may informally resolve a matter at any point by settlement in which the Respondent agrees to accept disciplinary or remedial action by consent in lieu of a disciplinary order.

- 2. INVESTIGATIVE FILE REVIEW:** A complaint enters this stage when the Board directs further investigation or fact gathering by the staff or directs that the file be sent to an investigator. Typically, investigative file reviews appear on the next Board agenda following receipt of the additional information or receipt of the investigator=s report.

The investigator=s report is available to the Respondent once the Board has reviewed and accepted the investigator=s report. The investigator=s report becomes available to other members of the public upon resolution of the complaint involved.

Staff provides the Respondent (and Complainant, if requested) written notice that the complaint is on the agenda for a specified meeting date. The Respondent (and Complainant) may attend the open sessions of that meeting and listen to the Board=s discussion and decision, but may not address the Board unless the Board asks them to do so.

As a result of this review, the Board may dismiss the complaint, direct further investigation, set the complaint for informal hearing, or refer it to formal hearing. The Board may informally resolve a matter at any point by settlement in which the Respondent agrees to accept disciplinary or remedial action by consent in lieu of a disciplinary order.

3. **INFORMAL HEARING:** If, based on the initial review or its review of the investigator=s report, the Board determines that the Respondent is or may be in violation of the Board=s statutes or rules, the Board may request a voluntary informal hearing with the Respondent. If an investigator=s report has been prepared, the Respondent will be furnished a copy prior to the informal hearing. The Respondent will also be provided with a copy of A Introduction to Informal Hearing, which explains the rights and responsibilities of the Respondent and the Board during the informal hearing.

At the conclusion of an informal hearing, the Board may dismiss the matter or find violations. If the Board finds violations, it may issue a letter of concern, issue a letter of remedial action, issue a letter of due diligence, or set a time period and terms of probation, which may include education and mentorship. For any Board action other than a letter of concern or a letter of remedial action, the Board shall request that the Respondent sign a consent agreement.

If, after an informal hearing, the Board determines that suspension or revocation may be warranted, it may refer the matter to formal hearing. If the Respondent disagrees with the sanctions imposed at an informal hearing, the Respondent may request a formal hearing in writing within 30 days from the date the written notice of the outcome of the informal hearing is received.

4. **ISSUES DEALING WITH FORMAL HEARING:** A complaint may be referred to a formal hearing when the Board determines that suspension or revocation may be warranted, the Respondent refuses an invitation to appear at an informal hearing, or the Respondent is aggrieved by the Board=s decision in an informal hearing. If the Respondent disagrees with the sanctions imposed after an informal hearing, the Respondent may request a formal hearing. If the Respondent fails to answer the complaint or appear and defend the matter, the administrative law judge may act upon the evidence without further notice.

The Board may conduct the formal hearing, or may refer it to the Office of Administrative Hearings (OAH) to be conducted by an administrative law judge. Formal hearings resemble court trials, with both the Board and the Respondent having the right to testify, call witnesses and present evidence. If OAH conducts the hearing, the administrative law judge makes recommendations back to the Board on resolving the matter.

As a result of a formal hearing, the Board finally determines what, if any, violations have occurred, and whether sanctions will be imposed. The Respondent has the right to request a review or rehearing and judicial review.

5. **COMPLIANCE FILE REVIEW:** If the Board=s final decision includes the imposition of education, mentorship, suspension or the like, the Board conducts compliance reviews to ensure that all orders are complied with.

Staff provides the Respondent written notice that the complaint is on the agenda for a specified meeting date. The Respondent may attend the open sessions of that meeting and listen to the Board=s discussion and decision, but may not address the Board unless the Board asks him to do so.

As a result of this review, the Board may confirm that the Respondent is in compliance. Or, the Board may direct further investigation or open a complaint for noncompliance.

6. **12-MONTH FILE REVIEW:** The Board reviews all complaints that are still open 12 months after the Board received the initial response to the complaint. The purpose of the review is to ensure that each complaint continues to be processed expeditiously.

Staff provides the Respondent (and Complainant, if requested) written notice that the complaint is on the agenda for a specified meeting date. The Respondent (and Complainant) may attend the open sessions of that meeting and listen to the Board=s discussion and decision, but may not address the Board unless the Board asks them to do so.

As a result of this review, the Board may affirm or modify its prior decision (if any), may dismiss the complaint, or may direct the staff to proceed with further action.